Canadian International Trade Tribunal

2011-2012

Report on Plans and Priorities

The Honourable James M. Flaherty
Minister of Finance

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CHAIRPERSON'S MESSAGE

I am pleased to present the 2011-2012 Report on Plans and Priorities (RPP) for the Canadian International Trade Tribunal (the Tribunal).

The Tribunal's mandate is to provide the fair, transparent, timely and effective disposition of international trade cases, government procurement reviews and other matters in various areas of the Tribunal's jurisdiction. The Tribunal conducts inquiries into complaints relating to unfair trading practices (i.e. dumping and subsidizing), requests for protection against rapid increases in imports (safeguards) and complaints regarding federal government procurement. The Tribunal hears appeals from decisions of the Minister of National Revenue under the *Excise Tax Act* and of the Canada Border Services Agency (CBSA) under the *Customs Act* and the *Special Import Measures Act* (*SIMA*). In its advisory role, the Tribunal undertakes general economic inquiries for the Governor in Council and tariff references for the Minister of Finance. The Tribunal's activities contribute to maintaining a competitive, fair and secure marketplace in Canada.

Global economic trends will influence the Tribunal's workload in 2011-2012. Since the economic recovery is progressing at a slower pace than predicted, the expected increase in trade remedies cases could be somewhat muted or delayed in 2011-2012. Nevertheless, procurement cases should continue to be a growing line of business for the Tribunal. This trend will be influenced both by the continued importance of government procurement to the private sector during this period of economic recovery and by an increased awareness of the Tribunal's procurement work. The appeal caseload is also expected to remain high.

The Tribunal's main priority for 2011-2012 continues to be the fair, timely and effective disposition of cases. In this regard, the Tribunal will continue to invest in its people and pursue initiatives aimed at further improving its management practices as well as its ability to deliver its legislative mandate.

In that context, the Tribunal will put in place a mechanism to ensure the effective transfer of corporate memory to guarantee normal continuity of operations when faced with key staff departures. The Tribunal will maintain its focus on effective planning and rigorous management. Of particular note, the Tribunal will continue the modernization of its rules of procedure in order to streamline proceedings, reduce the paper burden imposed on parties and increase efficiency and transparency while preserving fairness and protection of confidential information. Under improved service delivery, the Tribunal's priority will be to implement the modernization of its information technology (IT)/information management (IM) function. It will do so by improving its planning, updating its infrastructure and documenting its recovery processes. Through these initiatives, the Tribunal will contribute to advancing government priorities by enhancing its services to Canadians, improving its accountability and ensuring the transparency of its operations.

Serge Fréchette
Acting Chairperson

SECTION I—TRIBUNAL OVERVIEW

Raison d'être

The Tribunal provides Canadian and international businesses with access to fair, transparent and timely processes for the investigation of trade remedies cases and complaints concerning federal government procurement and for the adjudication of appeals on customs and excise matters. At the request of the Government, the Tribunal provides advice in tariff, trade, commercial and economic matters.

Responsibilities

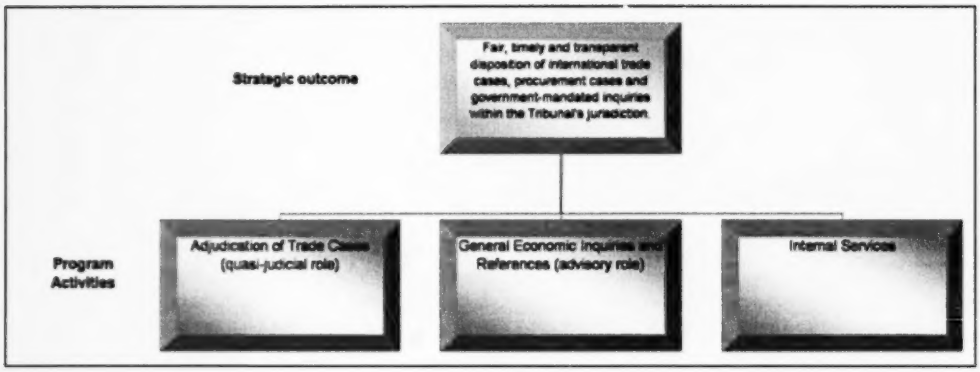
The Tribunal was established in December 1988 under the *Canadian International Trade Tribunal Act* (*CITT Act*). It acts as an independent, investigative and quasi-judicial decision-making body that reports to Parliament through the Minister of Finance. The Tribunal also derives authority from *SIMA*, the *Customs Act* and the *Excise Tax Act*. The Tribunal's office is located in Ottawa, Ontario.

The Tribunal fulfils the following roles within the Government of Canada:

- inquires, under *SIMA*, into whether dumped or subsidized imports have caused, or are threatening to cause, injury to a domestic industry;
- inquires into complaints by potential suppliers concerning procurement by the federal government that is covered by the *North American Free Trade Agreement* (*NAFTA*), the *Agreement on Internal Trade*, the World Trade Organization (WTO) *Agreement on Government Procurement*, the *Canada-Chile Free Trade Agreement* and the *Canada-Peru Free Trade Agreement*;
- hears appeals from decisions of the CBSA made under the *Customs Act* and *SIMA* and of the Minister of National Revenue under the *Excise Tax Act*;
- inquires into and provides advice on such economic, trade and tariff issues as are referred to the Tribunal by the Governor in Council or the Minister of Finance;
- investigates requests from Canadian producers for tariff relief on imported textile inputs used in their production operations and makes recommendations to the Minister of Finance on the requests; and
- undertakes safeguard inquiries into complaints by domestic producers that increased imports are causing, or threatening to cause, injury to domestic producers and, as directed, makes recommendations to the Government on an appropriate remedy.

Strategic Outcome and Program Activity Architecture

The chart bellow illustrates the Tribunal's complete framework of program activities and program sub-activities.


Strategic outcome
Fair, timely and transparent disposition of international trade cases, procurement cases and government-mandated inquiries within the Tribunal's jurisdiction.
Program Activities
Adjudication of Trade Cases (quasi-judicial role)
General Economic Inquiries and References (advisory role)
Internal Services

Planning Summary

Financial Resources ($ thousands)

2011-2012	2012-2013	2013-2014
11,473	9,922	9,922

Human Resources (Full-time Equivalents [FTEs])

2011-2012	2012-2013	2013-2014
91	77	77

Strategic Outcome 1

Fair, timely and transparent disposition of international trade cases, procurement cases and government-mandated inquiries within the Tribunal's jurisdiction.

Performance Indicators	Targets
Tribunal decisions overturned by the Federal Court of Appeal or international appeal bodies	Not more than 2 percent of all decisions rendered over the most recent five-year period are overturned by the Federal Court of Appeal and/or international appeal bodies.
Soundness of the Tribunal's decisions—Overturned decisions with "due process"	Less than 1 percent of all decisions rendered are overturned by the Federal Court of Appeal or international appeal bodies on judicial review dealing specifically with "due process".

Performance Indicators	Targets
Tribunal notices, decisions and guidelines are accessible to the public.	All notices, decisions and guidelines for all areas of its mandate and practice notices are accessible to the public through the Tribunal's Web site, the *Canada Gazette* and/or MERX (Canada's electronic tendering system).
Decisions are rendered within statutory deadlines.	All decisions are published within the statutory deadlines.
Appeal decisions are rendered within internal deadlines.	Seventy percent of decisions on appeals are published within internal deadlines.
Recommendations meet the terms of reference and provide requested information.	All recommendations and reports meet the terms of reference and provide requested information.
Reports, determinations and recommendations are published within statutory deadlines.	All reports and recommendations to the Government or the Minister of Finance are published within the statutory deadlines.

Financial Resources by Program Activity ($ thousands)

Program Activity[1]	Forecast Spending 2010-2011	Planned Spending			Alignment to Government of Canada Outcomes
		2011-2012	2012-2013	2013-2014	
Adjudication of Trade Cases (quasi-judicial role)	6,790	7,228	6,251	6,251	Fair and secure marketplace
General Economic Inquiries and References (advisory role)	108	115	99	99	Fair and secure marketplace
Internal Services	3,880	4,130	3,572	3,572	
Total	**10,778**	**11,473**	**9,922**	**9,922**	

1. For program activity descriptions, please access the Main Estimates online at http://www.tbs-sct.gc.ca/est-pre/estime.asp.

Contribution of the Tribunal's Priorities to its Strategic Outcome

Operational Priorities	Type	Link to Strategic Outcome	Description
Process Cases Within Legislative and Internal Deadlines and Maintain Quality Standards	Ongoing	Strategic Outcome 1	The Tribunal's overriding priority is to hear cases and make sound decisions on matters that fall within its jurisdiction within legislative and internal deadlines. In so doing, the Tribunal supports a fair marketplace in Canada, maintains its strong reputation both within Canada and throughout the world and complies with its legislative requirements.
Improve Service Delivery	Ongoing	Strategic Outcome 1	The Tribunal will continue to provide efficient and reliable services for parties and their counsel. It will also provide secure, efficient and reliable IT services to members and staff. It will at all times protect personal and confidential information and will apply regular process improvements to all these services. These measures will ensure the security and availability of information held by the Tribunal.

Management Priorities	Type	Link to Strategic Outcome	Description
Invest in Its People	Ongoing	Strategic Outcome 1	The Tribunal's reputation of excellence depends largely on its highly specialized workforce working closely together to deliver on its mandate. The Tribunal will continue to encourage a positive, healthy and respectful work environment and to offer professional development opportunities with an emphasis on learning, knowledge transfer, career and succession planning. The Tribunal will also continue to offer an inclusive barrier-free selection and appointment process reflective of the Canadian population. These measures will contribute to the long-term operational requirements of the Tribunal.

Management Priorities	Type	Link to Strategic Outcome	Description
Sound Management Practices	Ongoing	Strategic Outcome 1	The Tribunal will foster sound management practices in processing Tribunal cases and references and will observe all government-wide management accountability priorities, including the Management Accountability Framework (MAF) and the measures introduced under the *Federal Accountability Act*. The Tribunal will continue to evaluate its management practices to improve its performance and accountability as a whole.

Risk Analysis

Operating Environment

The global economic recovery is proceeding, but is not yet self-sustaining.[2] Meanwhile, economic activity in Canada, by and large, has improved as expected due to government stimulus and consumer spending.[3] Despite this positive momentum, the Canadian economy is not immune to the slower recovery being experienced in the United States, its largest trading partner. The U.S. recovery is more modest and is projected to be slower than in prior cycles.[4] As a result, the pace of Canada's recovery has slowed and will be more gradual than anticipated.[5]

Generally, this type of economic situation translates into an increased workload for the Tribunal across its mandate. Experience from prior recessions leads the Tribunal to expect an increase in the number of trade remedies cases. However, in light of the slower than expected recovery, this increase in trade remedies cases could be somewhat muted or delayed. Workload in the remainder of the Tribunal's mandate is increasing. Government procurement continues to be a growing line of business, and the number of procurement cases is expected to continue to increase. Similarly, appeal cases are expected to remain at high levels.

2. Bank of Canada, *Monetary Policy Report*, July 2010, at 1.
3. *Ibid.*
4. *Ibid.* at 10; Bank of Canada, *Monetary Policy Report*, October 2010, at 5.
5. Bank of Canada, *Monetary Policy Report*, July 2010, at 15; Bank of Canada, *Monetary Policy Report*, October 2010, at 1.

In line with the Government's efforts to reduce expenditures and administrative costs, the Tribunal obtained an independent review[6] of its trade remedies and procurement case processes in 2009-2010. Overall, the results were very positive. The review concluded the following: the management process properly integrates the roles of the Research Branch, Legal Services and the Secretariat, meets legislative requirements and is responsive to the needs of members; an effective, rigorous and timely oversight process is in place; and senior management regularly deliberates on risk assessments. It also concluded that there are appropriate performance measures linked to planned results and legislative requirements.

However, the review identified two matters for consideration. It recommended that the Tribunal document more fully certain of its processes and procedures to enable new staff to contribute more effectively and efficiently to the organization. In this regard, the Tribunal has reviewed its existing documentation and completed, as a first step, a comprehensive internal procedures manual for expiry processes, expiry reviews and interim reviews of trade remedies cases. Currently, it is working on an internal procedures manual for appeals of customs and excise tax decisions. The next step, planned for 2011-2012, is to prepare an internal procedures manual for procurement cases.

The review also recommended that the Tribunal consider the need for a cost-benefit analysis of an integrated and automated case management system in support of trade remedies and procurement case processes. The Tribunal is currently reviewing this recommendation. In the interim, it is making efforts to further automate its case management system and, wherever possible and desirable, to eliminate duplication and foster integration of existing systems.

Challenges and Key Risks

The Tribunal faces risks and challenges that could impact on the organization's ability to achieve its mandate. As part of the planning process, a risk assessment is conducted; therefore, managers are aware of these risks and challenges. They are expected to take appropriate action to mitigate the risks while ensuring the delivery of the Tribunal's mandate. Risks and related strategies are also discussed at regular Executive Committee meetings.

The following are the three key risks identified in the 2011-2012 planning session.

1. **Ability to manage cases (issuing quality decisions within deadlines) during periods of peak workload and economic uncertainty:** Managing the workload of trade remedies, procurement and appeal cases during peaks in a period of economic uncertainty will create pressure on management and staff to deliver quality and timely decisions. Risk management strategies relating to resource management and case process improvement initiatives will help to mitigate this risk.

6. Samson & Associates, *Preliminary Assessment of Special Import Measures Act & Procurement Processes*, March 2010.

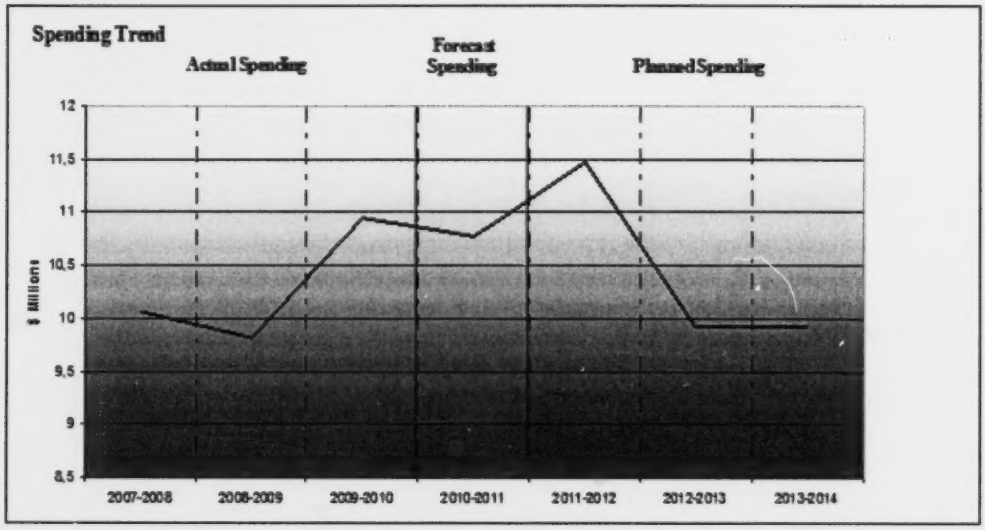
2. **Ability to recruit and train new staff and to transfer corporate memory during a period of staff turnover:** Recruiting and training new staff and transferring corporate memory during this period of staff turnover in key positions will create challenges for the organization. Most of the positions require highly talented and skilled individuals who may also require formal training before they can begin working on the Tribunal's cases. Transfer of corporate memory by key staff leaving the Tribunal is very important for business continuity. The Tribunal's human resources (HR) plan is in place and addresses recruitment and training issues facing the Tribunal. Competitions to fill the positions of key retiring senior staff are being held well in advance of departures to allow time for an orderly transfer of responsibilities and knowledge from incumbents to new appointees. An IM action plan is currently being developed to ensure timely access to case and corporate information.
3. **Ability to maintain an up-to-date IT infrastructure, efficient client service and proper recovery processes during a period of reinvestment:** The Auditor General's 2010 report on aging infrastructure and the latest MAF assessment report provided the Tribunal's management with an overview of the areas of its IT function that are at risk. To mitigate the risks associated with IT, the Tribunal plans to invest in planning, to renew its infrastructure and to document its procedures.

Expenditure Profile

Planned and Actual Spending ($ thousands)

	Actual Spending 2007-2008	Actual Spending 2008-2009	Actual Spending 2009-2010	Forecast Spending 2010-2011	Planned Spending 2011-2012	Planned Spending 2012-2013	Planned Spending 2013-2014
Net Cost of Program	10,061	9,819	10,952	10,778	11,473	9,922	9,922

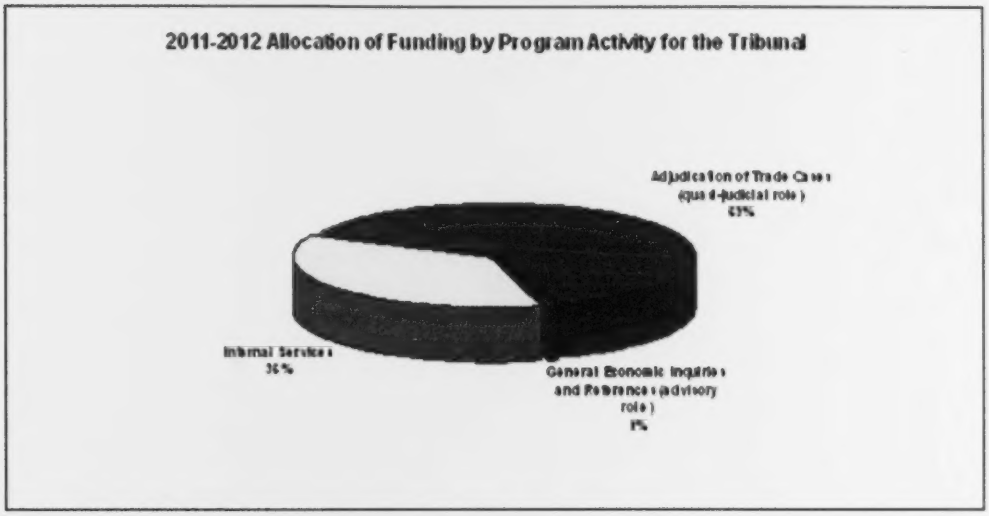
For the 2007-2008 to 2010-2011 periods, total spending includes all parliamentary appropriation: Main Estimates, Supplementary Estimates and Treasury Board Vote 15, and carry-forward adjustments. For the 2011-2012 to 2013-2014 periods, total spending corresponds to planned spending. Supplementary funding and carry-forward adjustments are unknown at this point and are therefore not reflected. Below is a graph showing the spending trend since 2007-2008.



The fluctuations in spending and planned spending since 2007-2008 can be explained by the two following events:

- In 2007-2008, the Tribunal replaced its aging hearing room audio system for a total actual cost of nearly $340,000.
- From 2009-2010 to 2011-2012, the Tribunal received additional funding to cover an operating budget shortfall resulting from an expected post-recession increase in caseload. The funding increase is $525,000 for 2009-2010, $2.1 million for 2010-2011 and $1.575 million for 2011-2012.

The figure below displays the percentage allocation of the Tribunal's funding by program activity for 2011-2012.


2011-2012 Allocation of Funding by Program Activity for the Tribunal
Adjudication of Trade Cases (quasi-judicial role)
63%
Internal Services
36%
General Economic Inquiries and Reference (advisory role)
1%

Estimates by Votes

For information on the Tribunal's votes and statutory expenditures, please see the 2011-2012 Main Estimates publication. An electronic version of the Main Estimates is available at http://www.tbs-sct.gc.ca/est-pre/20112012/me-bpd/toc-tdm-eng.asp.

SECTION II—ANALYSIS OF PROGRAM ACTIVITIES BY STRATEGIC OUTCOME

Strategic Outcome

Fair, timely and transparent disposition of international trade cases, procurement cases and government-mandated inquiries within the Tribunal's jurisdiction.

The following section describes the Tribunal's program activities and identifies the expected result, performance indicators and targets for each of them. This section also explains how the Tribunal plans on meeting the expected results and presents the financial and non-financial resources that will be dedicated to each program activity.

This section will contain a discussion of plans surrounding the following program activities:

- Adjudication of Trade Cases (quasi-judicial role)
- General Economic Inquiries and References (advisory role)
- Internal Services

Activity No. 1—Adjudication of Trade Cases (quasi-judicial role)

Human Resources (FTEs) and Planned Spending ($ thousands)					
2011-2012		2012-2013		2013-2014	
FTEs	Planned Spending	FTEs	Planned Spending	FTEs	Planned Spending
57	7,228	48	6,251	48	6,251

Program Activity Expected Results	Performance Indicators	Targets
Tribunal decisions are fair, impartial and based on quality information.	Tribunal decisions are overturned by the following national and international appeal bodies: • Federal Court of Appeal • Binational panels under *NAFTA* • Dispute settlement body, WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes* • Federal Court	Not more than 2 percent of all decisions rendered over the most recent five-year period are overturned by the Federal Court of Appeal and/or international appeal bodies.
	Soundness of the Tribunal's decisions under judicial review that are overturned by the Federal Court of Appeal and/or international appeal bodies based on "due process" not being followed.	Less than 1 percent of all decisions on due process will be overturned.
	Tribunal notices, decisions and guidelines for all areas of its mandate and practice notices are accessible to the public.	All notices, practice notices, decisions and guidelines for all areas of the Tribunal's mandate are accessible to the public.
	Decisions are issued within statutory deadlines. The Tribunal's decisions regarding dumping and/or subsidizing, safeguard inquiries and procurement complaints are subject to statutory deadlines.	All decisions are issued within the legislated deadline.
	Appeal decisions are issued within internal deadlines. There is no statutory deadline imposed for appeals of decisions of the CBSA and Minister of National Revenue. However, the Tribunal has adopted an informal, voluntary standard of issuing such decisions within 120 days of the hearing of an appeal.	70 percent of internal deadlines are met.

Program Activity Summary and Planning Highlights

In its quasi-judicial role, the Tribunal inquires into trade-related complaints (i.e. dumping, subsidizing and safeguards) and complaints regarding federal government procurement. The Tribunal hears appeals from decisions of the Minister of National Revenue under the *Excise Tax Act* and of the CBSA under the *Customs Act* and *SIMA*.

Planning Highlights: In order to achieve the expected result for its quasi-judicial role, the Tribunal plans to undertake the following activities:

- **Modernization of the Tribunal's Rules of Procedure:** The Tribunal will continue to review its Rules of Procedure in order to streamline proceedings, reduce the paper burden imposed on parties, and increase efficiency and transparency while preserving fairness and protection of confidential information. The Tribunal has now completed the first part of the rules (rules of general application), and the review of its rules pertaining to appeal cases will soon be completed. In 2011-2012, the Tribunal will complete its review of the rules pertaining to procurement and *SIMA* cases, and a complete, consolidated text containing all proposed amendments will be finalized and presented to stakeholders. This initiative, which already benefits from the input and participation of the Tribunal's stakeholders, will contribute to the Tribunal's main objective of processing cases within legislative and internal deadlines, maintaining quality standards and making sound decisions.
- **Writing of Procedures Manuals:** In 2011-2012, the Tribunal will continue to document its internal procedures manual for appeals from customs and excise tax decisions. It will also prepare an internal procedures manual for procurement cases.

Activity No. 2—General Economic Inquiries and References (advisory role)

Human Resources (FTEs) and Planned Spending ($ thousands)					
2011-2012		2012-2013		2013-2014	
FTEs	Planned Spending	FTEs	Planned Spending	FTEs	Planned Spending
1	115	1	99	1	99

Program Activity Expected Results	Performance Indicators	Targets
Tribunal recommendations on economic, trade, tariff matters and the standing textile reference are fair, impartial and based on quality information.	Recommendations meet the terms of reference and provide requested information. An indicator of the soundness of the Tribunal's decisions is the number of requests for additional information from the Minister of Finance.	All recommendations meet the terms of reference.
	Reports, decisions and recommendations are published within government-mandated deadlines. The Tribunal's recommendations regarding the tariff reference and economic inquiries are subject to statutory deadlines.	All recommendations are published within statutory deadlines.
Program Activity Summary and Planning Highlights In its advisory role, the Tribunal undertakes general economic inquiries and tariff references for the Minister of Finance or the Governor in Council.		

Activity No. 3—Internal Services Program Activity

Human Resources (FTEs) and Planned Spending ($ thousands)					
2011-2012		2012-2013		2013-2014	
FTEs	Planned Spending	FTEs	Planned Spending	FTEs	Planned Spending
33	4,130	28	3,572	28	3,572

Program Activity Summary and Planning Highlights

Internal Services are groups of related activities and resources that are administered to support the needs of the program and other corporate obligations of an organization. Internal Services include only those activities and resources that apply across an organization and not to those provided specifically to a program.

The Tribunal's planning highlights for Internal Services include the following.

- **Transfer of Corporate Memory**: Faced with future key staff departures, the Tribunal's challenge is to ensure the effective transfer of corporate memory to ensure normal continuity of operations. To meet its challenges, the Tribunal has approved an HR plan that incorporates attracting and developing top talent while ensuring the transfer of corporate memory. In key positions, transition plans are put in place to allow time for an orderly transfer of responsibilities and knowledge. The Tribunal plans to develop a new learning management framework to provide its staff with a comprehensive tool for learning. This initiative complements the plan to develop an orientation program to accelerate the integration of new staff into the organization and their acquisition of knowledge. In support of the learning framework, the Tribunal is investing more in the documentation of processes and procedures, in staff seminars and in the improvement of its IM systems. An IM action plan to manage corporate files is currently being developed and will be implemented in 2011-2012.
- **Modernizing the IT Function**: The Tribunal will start modernizing its IT function in 2011-2012 by improving its planning, updating its infrastructure and documenting its recovery processes. Also, the Tribunal will continue to integrate its IM function with the IT function to improve IM services to employees and to enhance the protection of corporate memory.

Benefits to Canadians

Through its program activities, the Tribunal provides the following benefits to Canadians:

- Access to fair and efficient processes for investigating complaints of injury caused by unfairly traded imports, complaints on designated federal government procurements and appeals on customs and excise matters
- Reliable economic and trade analysis and advice for the Government
- Through the above, a favourable environment for a fair and secure trading system for individual Canadians and the Canadian business sector

SECTION III—SUPPLEMENTARY INFORMATION

Financial Highlights

The future-oriented financial highlights presented within this Report on Plans and Priorities are intended to serve as a general overview of the Tribunal's financial operations. They are prepared on an accrual basis to strengthen accountability and improve transparency and financial management.

Future-oriented financial statements can be found on the Tribunal's Web site at http://www.citt-tcce.gc.ca/publicat/index5_e.asp.

Future-oriented Condensed Statement of Operations
For the year ending March 31
($ thousands)

	% Change	Future-oriented 2011-2012	Future-oriented 2010-2011
Expenses			
Total Expenses		14,112	N/A
Revenues			
Total Revenues		1	N/A
Net Cost of Operations		**14,111**	**N/A**

The estimated total net cost of operations for the Tribunal for fiscal year 2011-2012 is $14.111 million, which include $2.833 million of services rendered without charge. It is anticipated that the total will be allocated as follows: $8.890 million, or 63 percent of total net cost of operations, for the Tribunal's main program activity, which is the adjudication of trade cases; $141,000, or 1 percent of total net cost of operations, for general economic inquiries and references; and $5.080 million, or 36 percent of total net cost of operations, for internal services.

It should be noted that the Tribunal operates in a centralized environment where many costs normally assumed by line managers are covered by corporate services and are not reallocated to individual program activities (e.g. desktop computers, printers, cellular telephones, furniture and equipment, supplies, printing, messenger services and telecommunications).

Contact for Further Information and Web Site

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Legislation Governing the Work of the Canadian International Trade Tribunal

Canadian International Trade Tribunal Act	R.S.C. 1985 (4th Supp.), c. 47
Customs Act	R.S.C. 1985 (2d Supp.), c. 1
Excise Tax Act	R.S.C. 1985, c. E-15
Special Import Measures Act	R.S.C. 1985, c. S-15
Energy Administration Act	R.S.C. 1985, c. E-6
Canadian International Trade Tribunal Regulations	S.O.R./89-35
Canadian International Trade Tribunal Procurement Inquiry Regulations	S.O.R./93-602
Canadian International Trade Tribunal Rules	S.O.R./91-499

Tribunal Publications

For a complete list of Tribunal publications, please see the Tribunal's Web site at http://www.citt-tcce.gc.ca/publicat/index_e.asp.